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TO:	FROM:
Examiner Aaron Dunwoody	<i>[Signature]</i> 10M Cindy H. Kwacala, Reg. No. 47,667
COMPANY:	DATE:
USPTO	THURSDAY, JULY 21, 2005
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PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
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RE:	RECIPIENT'S REFERENCE NUMBER:
Response	10/810,456

URGENT

FOR REVIEW

PLEASE COMMENT

PLEASE REPLY

PLEASE RECYCLE

NOTES/COMMENTS:

**FORMAL COMMUNICATION INTENDED FOR  
ENTRY**

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JUL 21 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Cristopher FROST

Group Art Unit: 3679

Serial No.: 10/810,456

Examiner: Aaron Dunwoody

Filed: March 26, 2004

For: LOW PROFILE TENSION STYLE FLEXIBLE JOINT

Attorney Docket No.: H0006486-3018

<p align="center"><b>Certificate of Transmission</b></p> <p>I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300</p> <p>on <u>7/21/05</u> (Date).</p> <p>by Signature <u>[Signature]</u></p> <p align="center">Cindy H. Kwadala</p>
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**RESPONSE TO ELECTION/RESTRICTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In full and timely response to the Election/Restriction Requirement mailed June 24, 2005, Applicants' representative acknowledges the Examiner's finding of the patentable distinctness between two species. According to the Examiner:

Specie 1 is disclosed in FIG. 1; and

Specie 2 is disclosed in FIGs. 2-6.

In response, Applicants, through their representatives and attorneys, hereby provisionally elect Specie 2 with traverse. It is submitted that at least Claims 1-33 read on Specie 2.

Moreover, contrary to the wholly erroneous statement made in the Restriction Requirement, it is readily apparent that at least Claims 34-39 are generic claims that read on each of Species 1 and

2. This election is with traverse for at least the following reasons.

#### Reasons for Traversal

Initially, Applicants wish to point out that this traversal is not an admission that any or all of the cited species are not independent, nor that any or all of the cited species are not patentably distinct from one another. However, Applicants do submit that the independent and patentably distinct species are related under the particular disclosure. Where, as here, "inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to the election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 – 806.05(i)." See M.P.E.P. § 806.04(b). In accordance with this practice, when several patentably distinct inventions are disclosed as being related, the Examiner must establish reasons for insisting upon restriction. In particular, reasons for insisting upon restriction must be shown by an explanation of: (1) separate classification; (2) separate status in the art when classifiable together; or (3) a different field of search. See M.P.E.P. § 808-808.02. Applicants submit that such an explanation has not been provided, and further submit that one cannot be so provided.

Furthermore, as Applicants have noted above, it is submitted that 6 of the 39 pending claims are written sufficiently broad to cover both species cited by the Examiner.

Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the Election Requirement set forth in the above-noted Election/Restriction Requirement, and further request examination of all of the presently pending claims.

Respectfully submitted,

Dated: July 21, 2005By: Cindy H. Kwacala  
Reg. No. 47,667